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August 23, 1976

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The Honorable George B. Roberts, Jr.  
Speaker of the House of Representatives  
State House, Room 310  
Concord, New Hampshire 03301

Dear Mr. Roberts:

By the letter of your Administrative Assistant, Michael LaFontaine, dated August 13, 1976, you have inquired whether under the provisions of RSA 17-A:2 (Supp. 1975), the Joint Committee on Legislative Facilities may offer the position of Director of Legislative Services to anyone for a period extending beyond November 30, 1976, and whether prior to the expiration of the existing term it may appoint a successor to the position or renew the appointment for another biennial term.

It is our opinion the answer to both your inquiries must be in the negative. The general rule among jurisdictions which have considered the issue you raise is that a board with appointive powers cannot forestall the rights and prerogatives of its successor board by making a prospective appointment for a term which is not to begin until after its own term has expired. Annot., 75 A.L.R. 2d 1277, 1279 (1961); 63 Am. Jur. 2d, Public Officers and Employees, §98 (1972). RSA 17-A:2 (Supp. 1975) establishes a two-year term for the Director of Legislative Services, which term shall be coterminous with that of the biennial legislature. Although the statute specifies the date for commencement of the initial term (July 1, 1975), it does not indicate the commencement date of the subsequent terms. Nevertheless, the obvious intent of the statute is to authorize the Joint Committee on Legislative Facilities to select a Director of Legislative Services who will serve a term concurrent with that of the appointive legislative body. Since the Committee is composed of holders of various positions in the Legislature, its composition must change as the Legislature changes. Moreover, its term is

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coterminous with the dissolution of the General Court, which occurs at 12:01 a.m. on the first Wednesday of December biennially. N.H. Const. Pt. 2, Art. 3 (Supp. 1975). RSA 17-A:2 (Supp. 1975) specifies that the term of the Director of Legislative Services expires at the same time. To permit the Committee of the incumbent Legislature to select the Director who will serve the needs of the successor Legislature constitutes an incongruity not intended by the statute. Rather, as stated previously, RSA 17-A:2 (Supp. 1975) contemplates the selection of a director who will serve the Legislature and Committee which selects him.

Very truly yours,

Thomas D. Rath  
Deputy Attorney General

James E. Morris  
Attorney